IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

Crl.MC.No. 3587 of 2007()

AGAINST THE ORDER DATED 01/12/2006 IN CRMP 6899/2006 IN CC.146/2002 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM
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PETITIONER: 1ST ACCUSED:

JOHNY THOMAS, S/O.EYO THOMAS,
PATTUPURACKAL HOUSE, ETTUKKATTU TEMPLE ROAD,
ELAMAKARA, ERNAKULAM DISTRICT.

BY ADV. SRI.SHAJI CHIRAYATH
SMT.JIJI M. VARKEY

RESPONDENTS: COMPLAINANT AND STATE:
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1. **T.T.MATHEW, S/O.THOMAS,**
KATHRIKADAVU DESOM, ELAMKULAM VILLAGE,
KANAYANNOOR TALUK, ERNAKULAM DISTRICT.

2. **STATE OF KERALA REP. BY PUBLIC**
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3587 of 2007

Dated this the 1st day of December 2007

O R D E R

This petition is filed under Section 482 Cr.P.C by the petitioner who is the first accused in C.C.No.146/2002 pending before the Judicial First Class Magistrate Court-II, Ernakulam under Section 138 of the Negotiable Instruments Act. The complaint shows that the grievance is with respect to cheque No.325743 for Rs.2,00,000/- dated 15/09/2001. But when the document was produced along with the complaint, though the cheque was correctly described as item No.1 in the list of documents, another cheque No.154882 dated 30/7/2001 was produced along with the complaint. Joint trial was also later allowed. Prosecution in respect of cheque dated 30/7/2001 is pending before the same court as C.C.No.568/2002. In short, the cheque which ought to have been produced in C.C.No.146/02 was erroneously produced in C.C.No.568/2002 and vice versa. This is the only error committed.

2. The learned counsel for the respondent fairly submits that such an inadvertent error has crept in; but that has no crucial relevance. Both cases are pending and both cheques are available before court. The cheque ought to have been produced

in the first case was mistakenly produced in the second case. The respondent is making necessary application to call for the correct cheques to the correct cases. No other contentions are raised. I find no merit in the request to quash the proceedings for the simple reason that such an error is made in the relevant cheque in the relevant case.

3. The learned counsel for the petitioner has raised an objection against the direction that three cases can be tried together, that is C.C.Nos.146/02, 568/02 and 569/02. The learned counsel for the petitioner fairly accepts that if the correct cheque were called to the correct case file there can be no surviving grievance against the direction for transfer also. That submission can also be taken note of. I am satisfied, in these circumstances, that the petitioner is not entitled for any relief.

4. This Criminal Miscellaneous Case is hence dismissed with the observation that the learned Magistrate must consider the request of the learned counsel for the respondent to call the correct cheques to the file of the correct cases.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007